

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

KELLY HELMADOLLAR
Plaintiff

vs.

JNJ EXPRESS, INC. AND
DEBRA SALAZAR
Defendants

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§

C. A. No. 15-2561

JURY DEMANDED

DEFENDANTS' NOTICE OF REMOVAL

A. INTRODUCTION

1. Plaintiff is Kelly HelmaDollar; defendants are JNJ Express, Inc. and Debra Salazar.
2. On August 4, 2015, plaintiff sued defendants, JNJ Express, Inc. and Debra Salazar, for negligence in Cause No. 15-08-07959 in the 410th Judicial District Court of Montgomery County, Texas, seeking monetary relief in excess of \$200,000.00 but no more than \$1,000,000.00. [Ex. A-1, ¶ 2.1]. This action arises out of a motor vehicle collision that occurred on or about March 24, 2015 in Montgomery County, Texas, between a truck being driven by Debra Salazar and a pickup truck being driven by the plaintiff, Kelly Helmadollar.
3. Defendant JNJ Express, Inc. was served by certified mail through the Texas Transportation Commission on August 17, 2015.
4. Defendant Debra Salazar has been served but the return of service has not yet been filed by Plaintiff.

5. Defendants JNJ Express, Inc. and Debra Salazar file this notice of removal within the 30-day time period required by 28 U.S.C. § 1446(b). *Board of Regents of Univ. of Tex. Sys. v. Nippon Tel. & Tel. Corp.*, 478 F.3d 274, 278 (5th Cir. 2007).

B. BASIS FOR REMOVAL

6. **Complete Diversity of Citizenship.** Removal is proper because complete diversity exists between the parties, 28 U.S.C. § 1332(a); *Johnson v. Columbia Props. Anchorage, L.P.*, 437 F.3d 894, 899-900 (9th Cir. 2006). The plaintiff is a citizen of Texas and resides in Spring, Harris County, Texas. Defendant JNJ Express, Inc. is incorporated in Tennessee with its principal place of business in Memphis, Tennessee, and is therefore a citizen of Tennessee, 28 U.S.C. § 1332(c)(1). Defendant Debra Salazar is a citizen of Mississippi and resides in the city of Southaven, DeSoto County, Mississippi.

7. **Amount in Controversy.** In her Original Petition, the plaintiff demands monetary relief in excess of \$200,000.00 but no more than \$1,000,000.00. [Ex. A-1, ¶ 2.11]. This amount therefore is deemed to be the amount in controversy, 28 U.S.C. § 1446(c)(2), which exceeds the \$75,000.00 amount that is required, excluding interest and costs, for diversity jurisdiction pursuant to 28 U.S.C. § 1332(a); *Andrews v. E.I. Du Pont De Nemours & Co.*, 447 F.3d 510, 514-515 (7th Cir. 2006).

7. No other defendants have been named or served with plaintiff's petition and both defendants consent to this removal.

8. Copies of all process, pleadings, orders, and other filings in the state-court suit, except for discovery requests, are attached as Exhibit A to this notice as required by 28 U.S.C. § 1446(a) and Local Rule 81.

9. Venue is proper in this district under 28 U.S.C. § 1441(a) because the state court in which the suit has been pending is located in this district and division, 28 U.S.C. § 124(b)(2).

10. Defendant will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending.

C. JURY DEMAND

11. Defendant demands a jury trial in this court.

D. CONCLUSION

12. For these reasons, Defendants JNJ Express, Inc. and Debra Salazar ask the court to remove the suit to the United States District Court for the Southern District of Texas, Houston Division.

Respectfully submitted,

ELLINGTON & ASSOCIATES

s/ Owen H. Ellington

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was sent to the following counsel of record by first-class mail on this the 4th day of September, 2015:

Frank W. Robertson
Michael Gomez
Jim S. Adler & Associates
12605 East Freeway, Suite 400
Houston, Texas 77015

s/ Owen H. Ellington
Owen H. Ellington